

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 668

Introduced by Senator Fuller

(Coauthors: Assembly Members Conway and Hall)

February 22, 2013

~~An act to amend Section 739.1 of the Public Utilities Code, relating to electricity.~~ *An act to add Section 12012.60 to the Government Code, relating to tribal gaming.*

LEGISLATIVE COUNSEL'S DIGEST

SB 668, as amended, Fuller. ~~Electrical rates: California Alternate Rates for Energy.~~ *Tribal gaming: compact ratification.*

Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would ratify the tribal-state gaming compact entered into between the State of California and the Fort Independence Indian Community of Paiute Indians, executed February 28, 2013. The bill

would provide that, in deference to tribal sovereignty, certain actions are not projects for purposes of CEQA.

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical and gas corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Existing law requires the commission to designate a baseline quantity of electricity and gas necessary for a significant portion of the reasonable energy needs of the average residential customer, and requires that electrical and gas corporations file rates and charges, to be approved by the commission, providing baseline rates, and requires the commission, in establishing baseline rates, to avoid excessive rate increases for residential customers.~~

~~Existing law requires the commission to establish a program of assistance to low-income electric and gas customers, referred to as the California Alternate Rates for Energy or CARE program.~~

~~This bill would make technical, nonsubstantive changes to the CARE program.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12012.60 is added to the Government
- 2 Code, to read:
- 3 12012.60. (a) The tribal-state gaming compact entered into
- 4 in accordance with the federal Indian Gaming Regulatory Act of
- 5 1988 (18 U.S.C. Secs. 1166 to 1168, inclusive, and 25 U.S.C. Sec.
- 6 2701 et seq.) between the State of California and the Fort
- 7 Independence Indian Community of Paiute Indians, executed
- 8 February 28, 2013, is hereby ratified.
- 9 (b) (1) In deference to tribal sovereignty, none of the following
- 10 shall be deemed a project for purposes of the California
- 11 Environmental Quality Act (Division 13 (commencing with Section
- 12 21000) of the Public Resources Code):
- 13 (A) The execution of an amendment to the tribal-state gaming
- 14 compact ratified by this section.
- 15 (B) The execution of the tribal-state gaming compact ratified
- 16 by this section.

1 (C) *The execution of an intergovernmental agreement between*
2 *a tribe and a county or city government negotiated pursuant to*
3 *the express authority of, or as expressly referenced in, the*
4 *tribal-state gaming compact ratified by this section.*

5 (D) *The execution of an intergovernmental agreement between*
6 *a tribe and the Department of Transportation negotiated pursuant*
7 *to the express authority of, or as expressly referenced in, the*
8 *tribal-state gaming compact ratified by this section.*

9 (E) *The on-reservation impacts of compliance with the terms*
10 *of the tribal-state gaming compact ratified by this section.*

11 (F) *The sale of compact assets, as defined in subdivision (a) of*
12 *Section 63048.6, or the creation of the special purpose trust*
13 *established pursuant to Section 63048.65.*

14 (2) *Except as expressly provided herein, this subdivision does*
15 *not exempt a city, county, or city and county, or the Department*
16 *of Transportation, from the requirements of the California*
17 *Environmental Quality Act.*

18 ~~SECTION 1.—Section 739.1 of the Public Utilities Code is~~
19 ~~amended to read:~~

20 ~~739.1.—(a) As used in this section, the following terms have~~
21 ~~the following meanings:~~

22 ~~(1) “Baseline quantity” has the same meaning as defined in~~
23 ~~Section 739.~~

24 ~~(2) “California Solar Initiative” means the program providing~~
25 ~~ratepayer-funded incentives for eligible solar energy systems~~
26 ~~adopted by the commission in Decision 05-12-044 and Decision~~
27 ~~06-01-024, as modified by Article 1 (commencing with Section~~
28 ~~2851) of Chapter 9 of Part 2 and Chapter 8.8 (commencing with~~
29 ~~Section 25780) of Division 15 of the Public Resources Code.~~

30 ~~(3) “CalWORKs program” means the program established~~
31 ~~pursuant to the California Work Opportunity and Responsibility~~
32 ~~to Kids Act (Chapter 2 (commencing with Section 11200) of Part~~
33 ~~3 of Division 9 of the Welfare and Institutions Code).~~

34 ~~(4) “Public goods charge” means the nonbypassable separate~~
35 ~~rate component imposed pursuant to Article 7 (commencing with~~
36 ~~Section 381) of Chapter 2.3 and the nonbypassable system benefits~~
37 ~~charge imposed pursuant to the Reliable Electric Service~~
38 ~~Investments Act (Article 15 (commencing with Section 399) of~~
39 ~~Chapter 2.3).~~

~~(b) (1) The commission shall establish a program of assistance to low-income electric and gas customers with annual household incomes that are no greater than 200 percent of the federal poverty guideline levels, the cost of which shall not be borne solely by any single class of customer. The program shall be referred to as the California Alternate Rates for Energy or CARE program. The commission shall ensure that the level of discount for low-income electric and gas customers correctly reflects the level of need.~~

~~(2) The commission may, subject to the limitation in paragraph (4), increase the rates in effect for CARE program participants for electricity usage up to 130 percent of baseline quantities by the annual percentage increase in benefits under the CalWORKs program as authorized by the Legislature for the fiscal year in which the rate increase would take effect, but not to exceed 3 percent per year.~~

~~(3) Beginning January 1, 2019, the commission may, subject to the limitation in paragraph (4), establish rates for CARE program participants pursuant to this section and Sections 739 and 739.9, subject to both of the following:~~

~~(A) The requirements of subdivision (b) of Section 382 that the commission ensure that low-income ratepayers are not jeopardized or overburdened by monthly energy expenditures.~~

~~(B) The requirement that the level of the discount for low-income electricity and gas ratepayers correctly reflects the level of need as determined by the needs assessment conducted pursuant to subdivision (d) of Section 382.~~

~~(4) Tier 1, tier 2, and tier 3 CARE rates shall not exceed 80 percent of the corresponding tier 1, tier 2, and tier 3 rates charged to residential customers not participating in the CARE program, excluding any Department of Water Resources bond charge imposed pursuant to Division 27 (commencing with Section 80000) of the Water Code, the CARE surcharge portion of the public goods charge, any charge imposed pursuant to the California Solar Initiative, and any charge imposed to fund a program that exempts CARE participants from paying the charge.~~

~~(5) Rates charged to CARE program participants shall not have more than three tiers. An electrical corporation that does not have a tier 3 CARE rate may introduce a tier 3 CARE rate that, in order to moderate the impact on program participants whose usage exceeds 130 percent of baseline quantities, shall be phased in to~~

1 ~~80 percent of the corresponding rates charged to residential~~
2 ~~customers not participating in the CARE program, excluding any~~
3 ~~Department of Water Resources bond charge imposed pursuant to~~
4 ~~Division 27 (commencing with Section 80000) of the Water Code,~~
5 ~~the CARE surcharge portion of the public goods charge, any charge~~
6 ~~imposed pursuant to the California Solar Initiative, and any other~~
7 ~~charge imposed to fund a program that exempts CARE participants~~
8 ~~from paying the charge. For an electrical corporation that does not~~
9 ~~have a tier 3 CARE rate that introduces a tier 3 CARE rate, the~~
10 ~~initial rate shall be no more than 150 percent of the CARE baseline~~
11 ~~rate. Any additional revenues collected by an electrical corporation~~
12 ~~resulting from the adoption of a tier 3 CARE rate shall, until the~~
13 ~~utility's next periodic general rate case review of cost allocation~~
14 ~~and rate design, be credited to reduce rates of residential ratepayers~~
15 ~~not participating in the CARE program with usage above 130~~
16 ~~percent of baseline quantities.~~

17 ~~(e) The commission shall work with electrical and gas~~
18 ~~corporations to establish penetration goals. The commission shall~~
19 ~~authorize recovery of all administrative costs associated with the~~
20 ~~implementation of the CARE program that the commission~~
21 ~~determines to be reasonable, through a balancing account~~
22 ~~mechanism. Administrative costs shall include, but are not limited~~
23 ~~to, outreach, marketing, regulatory compliance, certification and~~
24 ~~verification, billing, measurement and evaluation, and capital~~
25 ~~improvements and upgrades to communications and processing~~
26 ~~equipment.~~

27 ~~(d) The commission shall examine methods to improve CARE~~
28 ~~enrollment and participation. This examination shall include, but~~
29 ~~need not be limited to, comparing information from CARE and~~
30 ~~the Universal Lifeline Telephone Service (ULTS) to determine~~
31 ~~the most effective means of utilizing that information to increase~~
32 ~~CARE enrollment, automatic enrollment of ULTS customers who~~
33 ~~are eligible for the CARE program, customer privacy issues, and~~
34 ~~alternative mechanisms for outreach to potential enrollees. The~~
35 ~~commission shall ensure that a customer consents prior to~~
36 ~~enrollment. The commission shall consult with interested parties,~~
37 ~~including ULTS providers, to develop the best methods of~~
38 ~~informing ULTS customers about other available low-income~~
39 ~~programs, as well as the best mechanism for telephone providers~~
40 ~~to recover reasonable costs incurred pursuant to this section.~~

~~(e) (1) The commission shall improve the CARE application process by cooperating with other entities and representatives of California government, including the California Health and Human Services Agency and the Secretary of California Health and Human Services, to ensure that all gas and electric customers eligible for public assistance programs in California that reside within the service territory of an electrical corporation or gas corporation, are enrolled in the CARE program. To the extent practicable, the commission shall develop a CARE application process using the existing ULTS application process as a model. The commission shall work with public utility electrical and gas corporations and the Low-Income Oversight Board established in Section 382.1 to meet the low-income objectives in this section.~~

~~(2) The commission shall ensure that an electrical corporation or gas corporation with a commission-approved program to provide discounts based upon economic need in addition to the CARE program, including a Family Electric Rate Assistance program, utilize a single application form, to enable an applicant to alternatively apply for assistance program for which the applicant may be eligible. It is the intent of the Legislature to allow applicants under one program, that may not be eligible under that program, but that may be eligible under an alternative assistance program based upon economic need, to complete a single application for any commission-approved assistance program offered by the public utility.~~

~~(f) The commission's program of assistance to low-income electric and gas customers shall, as soon as practicable, include nonprofit group living facilities specified by the commission, if the commission finds that the residents in these facilities substantially meet the commission's low-income eligibility requirements and there is a feasible process for certifying that the assistance shall be used for the direct benefit, such as improved quality of care or improved food service, of the low-income residents in the facilities. The commission shall authorize utilities to offer discounts to eligible facilities licensed or permitted by appropriate state or local agencies, and to facilities, including women's shelters, hospices, and homeless shelters, that may not have a license or permit but provide other proof satisfactory to the utility that they are eligible to participate in the program.~~

1 (g) It is the intent of the Legislature that the commission ensure
2 ~~CARE program participants are afforded the lowest possible~~
3 ~~electric and gas rates and, to the extent possible, are exempt from~~
4 ~~additional surcharges attributable to the energy crisis of 2000–01.~~

5 (h) (1) ~~In addition to existing assessments of eligibility, an~~
6 ~~electrical corporation may require proof of income eligibility for~~
7 ~~those CARE program participants whose electricity usage, in any~~
8 ~~monthly or other billing period, exceeds 400 percent of baseline~~
9 ~~usage. The authority of an electrical corporation to require proof~~
10 ~~of income eligibility is not limited by the means by which the~~
11 ~~CARE program participant enrolled in the program, including if~~
12 ~~the participant was automatically enrolled in the CARE program~~
13 ~~because of participation in a governmental assistance program. If~~
14 ~~a CARE program participant's electricity usage exceeds 400~~
15 ~~percent of baseline usage, the electrical corporation may require~~
16 ~~the CARE program participant to participate in the Energy Savings~~
17 ~~Assistance Program (ESAP), which includes a residential energy~~
18 ~~assessment, in order to provide the CARE program participant~~
19 ~~with information and assistance in reducing his or her energy usage.~~
20 ~~Continued participation in the CARE program may be conditioned~~
21 ~~upon the CARE program participant agreeing to participate in~~
22 ~~ESAP within 45 days of notice being given by the electrical~~
23 ~~corporation pursuant to this paragraph. The electrical corporation~~
24 ~~may require the CARE program participant to notify the utility of~~
25 ~~whether the residence is rented, and if so, a means by which to~~
26 ~~contact the landlord, and the electrical corporation may share any~~
27 ~~evaluation and recommendation relative to the residential structure~~
28 ~~that is made as part of an energy assessment, with the landlord of~~
29 ~~the CARE program participant. Requirements imposed pursuant~~
30 ~~to this paragraph shall be consistent with procedures adopted by~~
31 ~~the commission.~~

32 (2) ~~If a CARE program participant's electricity usage exceeds~~
33 ~~600 percent of baseline usage, the electrical corporation shall~~
34 ~~require the CARE program participant to participate in ESAP,~~
35 ~~which includes a residential energy assessment, in order to provide~~
36 ~~the CARE program participant with information and assistance in~~
37 ~~reducing his or her energy usage. Continued participation in the~~
38 ~~CARE program shall be conditioned upon the CARE program~~
39 ~~participant agreeing to participate in ESAP within 45 days of a~~
40 ~~notice made by the electrical corporation pursuant to this paragraph.~~

1 The electrical corporation may require the CARE program
2 participant to notify the utility of whether the residence is rented,
3 and if so, a means by which to contact the landlord, and the
4 electrical corporation may share any evaluation and
5 recommendation relative to the residential structure that is made
6 as part of an energy assessment, with the landlord of the CARE
7 program participant. Following the completion of the energy
8 assessment, if the CARE program participant's electricity usage
9 continues to exceed 600 percent of baseline usage, the electrical
10 corporation may remove the CARE program participant from the
11 program if the removal is consistent with procedures adopted by
12 the commission. This paragraph does not prevent a CARE program
13 participant with electricity usage exceeding 600 percent of baseline
14 usage from participating in an appeals process with the electrical
15 corporation to determine whether the participant's usage levels
16 are legitimate.

17 (3) A CARE program participant in a rental residence shall not
18 be removed from the program in situations where the landlord is
19 nonresponsive when contacted by the electrical corporation or
20 does not provide for ESAP participation.